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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2121 OF 2007

Shammi Kadir Naglekar ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. R.K. Mendadkar for Petitioner.

Mr. V.P. Malwankar, A.G.P. for R. Nos. 1 to 4.

CORAM: F.I. REBELLO &
R.M. SAVANT,JJ.
DATED: APRIL 09, 2007

P.C.:

. Rule. Heard forthwith.

. The committee has rejected the case of the Petitioner on the premises that there are no supporting documents. The Vigilance enquiry was in favour of the Petitioner. On behalf of the Petitioner, the learned counsel points out the G.R. dated 22.7.1996 which sets out that in case of Muslim/Musalman, it is necessary for conducting vigilence/home study enquiry. In the instant case, vigilance report was available. That was in favour of the petitioner. No reasons have been assigned as to why that report could not be considered. Apart from that merely because there is no documentary evidence, by itself cannot result in rejecting the claim of the person claiming right. As noted by the

Apex court in State of Maharashtra Vs. Ravi Prakash Parmar 2007(2) Mh.L.J. 250, it is open to the party to lead oral evidence also. The effect of the rejection of the Petitioner's claim not only disqualifies the Petitioner but his claim as belonging to O.B.C. for all times including his progeny. Considering the above, the impugned order is set aside. The matter is remanded back to the committee to reconsider according to law and take decision in the matter not latter than three months from today. Rule made absolute accordingly. No order as to cost.

. In the meantime, the State Election Commission is directed not to proceed to fill in the vacancy.

(R.M. SAVANT,J.) **(F.I.REBELLO, J.)**